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December 3, 2015

VIA ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20554

Re: Notice of *Ex Parte* Communication
In the Matter of Parts 73 and 74 of the Commission's Rules to Establish
Rules for Digital Low Power Television and Television Translator Stations,
MB Docket No. 03-185; Amendment of Expanding the Economic and
Innovation Opportunities of Spectrum Through Incentive Auctions, GN
Docket No. 12-268

Dear Ms. Dortch:

On December 2 and 3, Robert J. Folliard, III, Deputy General Counsel of Gray Television, Inc. and Joan Stewart of Wiley Rein LLP met separately with (1) Matthew Berry of the Office of Commissioner Ajit Pai, and (2) Commissioner O'Rielly and Erin McGrath of the Office of Commissioner O'Rielly.

During each meeting, Gray Television encouraged the Commission to provide LPTV stations with reasonable advanced notice of any deadline by which LPTV stations must be operating and licensed in order to preserve the station's right to participate in the displacement window following the conclusion of the Incentive Auction.

The Commission, in the Incentive Auction R&O,¹ assured LPTV stations that "[a]fter the release of the Channel Reassignment PN and after eligible full power and Class A television stations have an opportunity to file construction permit applications for their new facilities...", the Media Bureau will open a "limited window for *operating* LPTV and TV translator stations to submit a displacement application."

¹ Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, Report and Order, 29 FCC Rcd 6567, ¶659 (2014) ("Incentive Auction R&O") (*emphasis added*).



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The Commission has not sought comment on a licensing deadline date for LPTV stations that desire to be eligible for participation in the displacement window or otherwise sought comment on any changes to 47 C.F.R. § 73.3700(g)(1), which sets forth the requirements for the displacement window. However, to the extent that it now is considering such a deadline, Gray encourages the Commission to be transparent and forthcoming in its communication with LPTV stations. Specifically, the Commission should not impose a deadline that is retroactive or becomes effective on the day it is announced. Rather, licensees must be given sufficient warning of this crucial deadline to allow them to complete construction and license permitted facilities.

Gray proposes that any deadline—to the extent one is contemplated—be set for at least six-months in the future. This will give permittees with either partially built stations or concrete plans to build a station sufficient time to complete construction and license the facility. Licensees that are building facilities during this general period of uncertainty for LPTV stations understand they face a risk of displacement, but they are not expecting nor have they had any notice that current investments in partially built facilities will be stranded.

Gray understands and supports the Commission's determination to place a higher priority on licensed LPTV stations over unlicensed LPTV facilities. As Gray has adamantly argued in the vacant channel proceeding, licensed operations affirmatively serving the public interests should not be subordinating to unlicensed uses of the broadcast spectrum. Similarly, licensed LPTV stations that are proactively serving their communities should have the first opportunity to seek a displacement channel after the Incentive Auction. Gray merely requests that the Commission provide reasonable notice of any deadline and a sufficient opportunity to complete construction of facilities that are already in the pipeline.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Joan Stewart", written over a horizontal line.

Joan Stewart

cc: Commissioner O'Rielly
Erin McGrath
Matthew Berry